

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ERIC TRAVERS, MICHAEL BOUDREAU,)
JOSEPH COLELLA, CLIFFORD ARPINO,)
MICHAEL MARINI, ROCCO MARINI, and)
BRICE ADAMS,)
Plaintiffs,)
v.) Civil Action No. 04-12635-RWZ
CITY OF NEWTON, MASSACHUSETTS,)
and DAVID B. COHEN, In his capacity as)
Mayor of the City of Newton, Massachusetts;)
Defendants.)

)

PLAINTIFFS' MOTION FOR JUDGMENT ON THE PLEADINGS
OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT

Pursuant to Federal Rules of Civil Procedure, Rule 12(c), the Plaintiffs, Eric Travers, Michael Boudreau, Joseph Colella, Clifford Arpino, Michael Marini, Rocco Marini, and Brice Adams hereby move for judgment on the pleadings. These motions are supported by the attached Memorandum of Law.

Plaintiffs allege that the Defendants failed to consider and select them for entry-level firefighter positions for the City of Newton pursuant to an unjustified race-based selection system that violates the Fourteenth Amendment to the United States Constitution, as asserted through 42 U.S.C. § 1983. The Defendants have persisted in applying a thirty (30) year old affirmative action plan favoring minorities despite the fact that, at the time it failed to consider the Plaintiffs for selection, the percentage of minority Newton firefighters clearly exceeded the percentage of minorities residing in the City of Newton.

Plaintiffs are thus entitled to judgment in their favor.

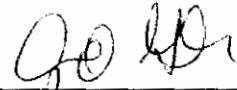
WHEREFORE, Plaintiffs respectfully request that this Court:

1. Enter judgment in their favor and schedule a damages hearing in the near future.
2. Enter a permanent injunction requiring the City to cease and desist from using race in its hiring process for the City of Newton Fire Department and requiring the City to immediately consider the Plaintiffs for positions as firefighters.
3. Enter any other relief which is just and proper.

Respectfully submitted,

ERIC TRAVERS, MICHAEL BOUDREAU,
JOSEPH COLELLA, CLIFFORD ARPINO,
MICHAEL MARINI, ROCCO MARINI, and
BRICE ADAMS,

By their attorneys,

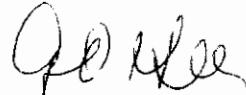


Harold L. Lichten, BBO #549689
Alfred Gordon, BBO #630456
Pyle, Rome, Lichten & Ehrenberg, P.C.
18 Tremont Street, Suite 500
Boston, MA 02108
(617) 367-7200

Date: July 1, 2005

LOCAL RULE 7.1 CERTIFICATION

I hereby hereby certify that I conferred with counsel for the Defendants pursuant to Local Rule 7.1 by telephone on June 29, 2005.

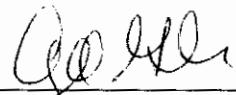


Alfred Gordon

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served on the attorneys of record for each party by U.S. Mail on July 1, 2005.

(method)



Alfred Gordon